



Senate

General Assembly

File No. 513

February Session, 2004

Substitute Senate Bill No. 101

Senate, April 7, 2004

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING THE ADMINISTRATIVE LICENSE
SUSPENSION OF DRUNKEN DRIVERS AND THE PRETRIAL
ALCOHOL EDUCATION SYSTEM.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 14-227b of the general statutes, as amended by
2 sections 48 and 49 of public act 03-278, is repealed and the following is
3 substituted in lieu thereof (*Effective October 1, 2004*):

4 (a) Any person who operates a motor vehicle in this state shall be
5 deemed to have given such person's consent to a chemical analysis of
6 such person's blood, breath or urine and, if such person is a minor,
7 such person's parent or parents or guardian shall also be deemed to
8 have given their consent.

9 (b) If any such person, having been placed under arrest for
10 operating a motor vehicle while under the influence of intoxicating
11 liquor or any drug or both, and thereafter, after being apprised of such
12 person's constitutional rights, having been requested to submit to a

13 blood, breath or urine test at the option of the police officer, having
14 been afforded a reasonable opportunity to telephone an attorney prior
15 to the performance of such test and having been informed that such
16 person's license or nonresident operating privilege may be suspended
17 in accordance with the provisions of this section if such person refuses
18 to submit to such test or if such person submits to such test and the
19 results of such test indicate that such person has an elevated blood
20 alcohol content, and that evidence of any such refusal shall be
21 admissible in accordance with subsection (e) of section 14-227a, as
22 amended, and may be used against such person in any criminal
23 prosecution, refuses to submit to the designated test, the test shall not
24 be given; provided, if the person refuses or is unable to submit to a
25 blood test, the police officer shall designate the breath or urine test as
26 the test to be taken. The police officer shall make a notation upon the
27 records of the police department that such officer informed the person
28 that such person's license or nonresident operating privilege may be
29 suspended if such person refused to submit to such test or if such
30 person submitted to such test and the results of such test indicated that
31 such person had an elevated blood alcohol content.

32 (c) If the person arrested refuses to submit to such test or analysis or
33 submits to such test or analysis, commenced within two hours of the
34 time of operation, and the results of such test or analysis indicate that
35 such person has an elevated blood alcohol content, the police officer,
36 acting on behalf of the Commissioner of Motor Vehicles, shall
37 immediately revoke and take possession of the motor vehicle
38 operator's license or, if such person is a nonresident, suspend the
39 nonresident operating privilege of such person, for a twenty-four-hour
40 period. The police officer shall prepare a written report of the incident
41 and shall mail the report and a copy of the results of any chemical test
42 or analysis to the Department of Motor Vehicles within three business
43 days. The report shall be made on a form approved by the
44 Commissioner of Motor Vehicles and shall be subscribed and sworn to
45 under penalty of false statement as provided in section 53a-157b by the
46 arresting officer. If the person arrested refused to submit to such test or
47 analysis, the report shall be endorsed by a third person who witnessed

48 such refusal. The report shall set forth the grounds for the officer's
49 belief that there was probable cause to arrest such person for operating
50 a motor vehicle while under the influence of intoxicating liquor or any
51 drug or both and shall state that such person had refused to submit to
52 such test or analysis when requested by such police officer to do so or
53 that such person submitted to such test or analysis, commenced within
54 two hours of the time of operation, and the results of such test or
55 analysis indicated that such person had an elevated blood alcohol
56 content.

57 (d) If the person arrested submits to a blood or urine test at the
58 request of the police officer, and the specimen requires laboratory
59 analysis in order to obtain the test results, the police officer shall not
60 take possession of the motor vehicle operator's license of such person
61 or, except as provided in this subsection, follow the procedures
62 subsequent to taking possession of the operator's license as set forth in
63 subsection (c) of this section. If the test results indicate that such
64 person has an elevated blood alcohol content, the police officer,
65 immediately upon receipt of the test results, shall notify the
66 Commissioner of Motor Vehicles and submit to the commissioner the
67 written report required pursuant to subsection (c) of this section.

68 (e) (1) [Upon] Except as provided in subdivision (2) of this
69 subsection, upon receipt of such report, the Commissioner of Motor
70 Vehicles may suspend any license or nonresident operating privilege
71 of such person effective as of a date certain, which date shall be not
72 later than thirty days after the date such person received notice of such
73 person's arrest by the police officer. Any person whose license or
74 operating privilege has been suspended in accordance with this
75 [subsection] subdivision shall automatically be entitled to a hearing
76 before the commissioner to be held prior to the effective date of the
77 suspension. The commissioner shall send a suspension notice to such
78 person informing such person that such person's operator's license or
79 nonresident operating privilege is suspended as of a date certain and
80 that such person is entitled to a hearing prior to the effective date of
81 the suspension and may schedule such hearing by contacting the

82 Department of Motor Vehicles not later than seven days after the date
83 of mailing of such suspension notice.

84 (2) If the person arrested (A) is involved in an accident resulting in a
85 fatality, or (B) has previously had such person's operator's license or
86 nonresident operating privilege suspended under the provisions of
87 section 14-227a, as amended, during the ten-year period preceding the
88 present arrest, upon receipt of such report, the Commissioner of Motor
89 Vehicles may suspend any license or nonresident operating privilege
90 of such person effective as of the date specified in a notice of such
91 suspension to such person. Any person whose license or operating
92 privilege has been suspended in accordance with this subdivision shall
93 automatically be entitled to a hearing before the commissioner. The
94 commissioner shall send a suspension notice to such person informing
95 such person that such person's operator's license or nonresident
96 operating privilege is suspended as of the date specified in such
97 suspension notice, and that such person is entitled to a hearing and
98 may schedule such hearing by contacting the Department of Motor
99 Vehicles not later than seven days after the date of mailing of such
100 suspension notice. Any suspension issued under this subdivision shall
101 remain in effect until such suspension is affirmed or such license or
102 operating privilege is reinstated in accordance with subsections (f) and
103 (h) of this section.

104 (f) If such person does not contact the department to schedule a
105 hearing, the commissioner shall affirm the suspension contained in the
106 suspension notice for the appropriate period specified in subsection (i)
107 of this section.

108 (g) If such person contacts the department to schedule a hearing, the
109 department shall assign a date, time and place for the hearing, which
110 date shall be prior to the effective date of the suspension, except that,
111 with respect to a person whose license or nonresident operating
112 privilege is suspended in accordance with subdivision (2) of subsection
113 (e) of this section, such hearing shall be scheduled not later than thirty
114 days after such person contacts the department. At the request of such

115 person or the hearing officer and upon a showing of good cause, the
116 commissioner may grant one continuance for a period not to exceed
117 fifteen days. The hearing shall be limited to a determination of the
118 following issues: (1) Did the police officer have probable cause to
119 arrest the person for operating a motor vehicle while under the
120 influence of intoxicating liquor or any drug or both; (2) was such
121 person placed under arrest; (3) did such person refuse to submit to
122 such test or analysis or did such person submit to such test or analysis,
123 commenced within two hours of the time of operation, and the results
124 of such test or analysis indicated that such person had an elevated
125 blood alcohol content; and (4) was such person operating the motor
126 vehicle. In the hearing, the results of the test or analysis shall be
127 sufficient to indicate the ratio of alcohol in the blood of such person at
128 the time of operation, except that if the results of the additional test
129 indicate that the ratio of alcohol in the blood of such person is
130 twelve-hundredths of one per cent or less of alcohol, by weight, and is
131 higher than the results of the first test, evidence shall be presented that
132 demonstrates that the test results and analysis thereof accurately
133 indicate the blood alcohol content at the time of operation. The fees of
134 any witness summoned to appear at the hearing shall be the same as
135 provided by the general statutes for witnesses in criminal cases.

136 (h) If, after such hearing, the commissioner finds on any one of the
137 said issues in the negative, the commissioner shall reinstate such
138 license or operating privilege. If, after such hearing, the commissioner
139 does not find on any one of the said issues in the negative or if such
140 person fails to appear at such hearing, the commissioner shall affirm
141 the suspension contained in the suspension notice for the appropriate
142 period specified in subsection (i) of this section. The commissioner
143 shall render a decision at the conclusion of such hearing or send a
144 notice of the decision by bulk certified mail to such person not later
145 than thirty days or, if a continuance is granted, not later than forty-five
146 days from the date such person received notice of such person's arrest
147 by the police officer. The notice of such decision sent by certified mail
148 to the address of such person as shown by the records of the
149 commissioner shall be sufficient notice to such person that such

150 person's operator's license or nonresident operating privilege is
151 reinstated or suspended, as the case may be. Unless a continuance of
152 the hearing is granted pursuant to subsection (g) of this section, if the
153 commissioner fails to render a decision within thirty days from the
154 date such person received notice of such person's arrest by the police
155 officer, the commissioner shall reinstate such person's operator's
156 license or nonresident operating privilege, provided notwithstanding
157 such reinstatement the commissioner may render a decision not later
158 than two days thereafter suspending such operator's license or
159 nonresident operating privilege.

160 (i) The commissioner shall suspend the operator's license or
161 nonresident operating privilege of a person who did not contact the
162 department to schedule a hearing, who failed to appear at a hearing or
163 against whom, after a hearing, the commissioner held pursuant to
164 subsection (h) of this section, as of the effective date contained in the
165 suspension notice or the date the commissioner renders a decision,
166 whichever is later, for a period of: (1) (A) Except as provided in
167 subparagraph (B) of this subdivision, ninety days, if such person
168 submitted to a test or analysis and the results of such test or analysis
169 indicated that such person had an elevated blood alcohol content, (B)
170 one hundred twenty days, if such person submitted to a test or
171 analysis and the results of such test or analysis indicated that the ratio
172 of alcohol in the blood of such person was sixteen-hundredths of one
173 per cent or more of alcohol, by weight, or (C) six months if such person
174 refused to submit to such test or analysis, (2) if such person has
175 previously had such person's operator's license or nonresident
176 operating privilege suspended under this section, (A) except as
177 provided in subparagraph (B) of this subdivision, nine months if such
178 person submitted to a test or analysis and the results of such test or
179 analysis indicated that such person had an elevated blood alcohol
180 content, (B) ten months if such person submitted to a test or analysis
181 and the results of such test or analysis indicated that the ratio of
182 alcohol in the blood of such person was sixteen-hundredths of one per
183 cent or more of alcohol, by weight, and (C) one year if such person
184 refused to submit to such test or analysis, and (3) if such person has

185 two or more times previously had such person's operator's license or
186 nonresident operating privilege suspended under this section, (A)
187 except as provided in subparagraph (B) of this subdivision, two years
188 if such person submitted to a test or analysis and the results of such
189 test or analysis indicated that such person had an elevated blood
190 alcohol content, (B) two and one-half years if such person submitted to
191 a test or analysis and the results of such test or analysis indicated that
192 the ratio of alcohol in the blood of such person was sixteen-hundredths
193 of one per cent or more of alcohol, by weight, and (C) three years if
194 such person refused to submit to such test or analysis.

195 (j) Notwithstanding the provisions of subsections (b) to (i),
196 inclusive, of this section, any police officer who obtains the results of a
197 chemical analysis of a blood sample taken from an operator of a motor
198 vehicle involved in an accident who suffered or allegedly suffered
199 physical injury in such accident shall notify the Commissioner of
200 Motor Vehicles and submit to the commissioner a written report if
201 such results indicate that such person had an elevated blood alcohol
202 content, and if such person was arrested for violation of section
203 14-227a, as amended, in connection with such accident. The report
204 shall be made on a form approved by the commissioner containing
205 such information as the commissioner prescribes, and shall be
206 subscribed and sworn to under penalty of false statement, as provided
207 in section 53a-157b, by the police officer. The commissioner may, after
208 notice and an opportunity for hearing, which shall be conducted in
209 accordance with chapter 54, suspend the motor vehicle operator's
210 license or nonresident operating privilege of such person for a period
211 of up to ninety days, or, if such person has previously had such
212 person's operator's license or nonresident operating privilege
213 suspended under this section for a period of up to one year. Each
214 hearing conducted under this subsection shall be limited to a
215 determination of the following issues: (1) Whether the police officer
216 had probable cause to arrest the person for operating a motor vehicle
217 while under the influence of intoxicating liquor or drug or both; (2)
218 whether such person was placed under arrest; (3) whether such person
219 was operating the motor vehicle; (4) whether the results of the analysis

220 of the blood of such person indicate that such person had an elevated
221 blood alcohol content; and (5) whether the blood sample was obtained
222 in accordance with conditions for admissibility and competence as
223 evidence as set forth in subsection (j) of section 14-227a, as amended.
224 If, after such hearing, the commissioner finds on any one of the said
225 issues in the negative, the commissioner shall not impose a suspension.
226 The fees of any witness summoned to appear at the hearing shall be
227 the same as provided by the general statutes for witnesses in criminal
228 cases, as provided in section 52-260.

229 (k) The provisions of this section shall apply with the same effect to
230 the refusal by any person to submit to an additional chemical test as
231 provided in subdivision (5) of subsection (b) of section 14-227a, as
232 amended.

233 (l) The provisions of this section shall not apply to any person
234 whose physical condition is such that, according to competent medical
235 advice, such test would be inadvisable.

236 (m) The state shall pay the reasonable charges of any physician who,
237 at the request of a municipal police department, takes a blood sample
238 for purposes of a test under the provisions of this section.

239 (n) For the purposes of this section, "elevated blood alcohol content"
240 means (1) a ratio of alcohol in the blood of such person that is eight-
241 hundredths of one per cent or more of alcohol, by weight, or (2) if such
242 person is under twenty-one years of age, a ratio of alcohol in the blood
243 of such person that is two-hundredths of one per cent or more of
244 alcohol, by weight.

245 (o) The Commissioner of Motor Vehicles shall adopt regulations, in
246 accordance with chapter 54, to implement the provisions of this
247 section.

248 Sec. 2. Section 54-56g of the general statutes, as amended by sections
249 11 and 13 of public act 03-244 and section 177 of public act 03-6 of the
250 June 30 special session, is repealed and the following is substituted in

251 lieu thereof (*Effective October 1, 2004*):

252 (a) There shall be a pretrial alcohol education system for persons
253 charged with a violation of section 14-227a, as amended, [or] 14-227g,
254 [and the provisions of sections] 15-133, as amended, 15-140l, as
255 amended, [and] or 15-140n, as amended. Upon application by any such
256 person for participation in such system and payment to the court of an
257 application fee of fifty dollars and a nonrefundable evaluation fee of
258 one hundred dollars, the court shall, but only as to the public, order
259 the court file sealed, provided such person states under oath, in open
260 court or before any person designated by the clerk and duly
261 authorized to administer oaths, under penalties of perjury that: (1) If
262 such person is charged with a violation of section 14-227a, as amended,
263 such person has not had such system invoked in such person's behalf
264 within the preceding ten years for a violation of section 14-227a, as
265 amended, (2) if such person is charged with a violation of section 14-
266 227g, such person has never had such system invoked in such person's
267 behalf for a violation of section 14-227a, as amended, or 14-227g, (3)
268 such person has not been convicted of a violation of section 53a-56b or
269 53a-60d, a violation of subsection (a) of section 14-227a, as amended,
270 before or after October 1, 1981, or a violation of subdivision (1) or (2) of
271 subsection (a) of section 14-227a, as amended, on or after October 1,
272 1985, and (4) such person has not been convicted in any other state at
273 any time of an offense the essential elements of which are substantially
274 the same as section 53a-56b or 53a-60d or subdivision (1) or (2) of
275 subsection (a) of section 14-227a, as amended. Unless good cause is
276 shown, a person shall be ineligible for participation in such pretrial
277 alcohol education system if such person's alleged violation of section
278 14-227a, as amended, or 14-227g caused the serious physical injury, as
279 defined in section 53a-3, of another person. The application fee
280 imposed by this subsection shall be credited to the Criminal Injuries
281 Compensation Fund established by section 54-215, as amended.

282 (b) The court, after consideration of the recommendation of the
283 state's attorney, assistant state's attorney or deputy assistant state's
284 attorney in charge of the case, may, in its discretion, grant such

285 application. If the court grants such application, it shall refer such
286 person to the Court Support Services Division for assessment and
287 confirmation of the eligibility of the applicant and to the Department
288 of Mental Health and Addiction Services for evaluation. The Court
289 Support Services Division, in making its assessment and confirmation,
290 may rely on the representations made by the applicant under oath in
291 open court with respect to convictions in other states of offenses
292 specified in subsection (a) of this section. Upon confirmation of
293 eligibility and receipt of the evaluation report, the defendant shall be
294 referred to the Department of Mental Health and Addiction Services
295 by the Court Support Services Division for placement in an
296 appropriate alcohol intervention program for one year, or ordered to
297 complete a state-licensed substance abuse treatment program. Any
298 person who enters the system shall agree: (1) To the tolling of the
299 statute of limitations with respect to such crime, (2) to a waiver of such
300 person's right to a speedy trial, (3) to complete ten or fifteen counseling
301 sessions in an alcohol intervention program or successfully complete a
302 substance abuse treatment program of not less than twelve sessions
303 pursuant to this section dependent upon the evaluation report and the
304 court order, (4) to accept placement in a post-intervention treatment
305 program upon recommendation of a provider under contract with the
306 Department of Mental Health and Addiction Services pursuant to
307 subsection (d) of this section or placement in a post-intervention
308 treatment program which has standards substantially similar to, or
309 higher than, a program of a provider under contract with the
310 Department of Mental Health and Addiction Services, [if the Court
311 Support Services Division deems it appropriate] unless the court
312 determines otherwise, and (5) if ordered by the court, to participate in
313 at least one victim impact panel. The suspension of the motor vehicle
314 operator's license of any such person pursuant to section 14-227b, as
315 amended by this act, shall be effective during the period such person is
316 participating in such program, provided such person shall have the
317 option of not commencing the participation in such program until the
318 period of such suspension is completed. If the Court Support Services
319 Division informs the court that the defendant is ineligible for the

320 system and the court makes a determination of ineligibility or if the
321 program provider certifies to the court that the defendant did not
322 successfully complete the assigned program or is no longer amenable
323 to treatment, the court shall order the court file to be unsealed, enter a
324 plea of not guilty for such defendant and immediately place the case
325 on the trial list. If such defendant satisfactorily completes the assigned
326 program, such defendant may apply for dismissal of the charges
327 against such defendant and the court, on reviewing the record of the
328 defendant's participation in such program submitted by the Court
329 Support Services Division and on finding such satisfactory completion,
330 shall dismiss the charges. If the defendant does not apply for dismissal
331 of the charges against such defendant after satisfactorily completing
332 the assigned program the court, upon receipt of the record of the
333 defendant's participation in such program submitted by the Court
334 Support Services Division, may on its own motion make a finding of
335 such satisfactory completion and dismiss the charges. Upon motion of
336 the defendant and a showing of good cause, the court may extend the
337 one-year placement period for a reasonable period for the defendant to
338 complete the assigned program. A record of participation in such
339 program shall be retained by the Court Support Services Division for a
340 period of seven years from the date of application. The Court Support
341 Services Division shall transmit to the Department of Motor Vehicles a
342 record of participation in such program for each person who
343 satisfactorily completes such program. The Department of Motor
344 Vehicles shall maintain for a period of seven years the record of a
345 person's participation in such program as part of such person's driving
346 record. The Court Support Services Division shall transmit to the
347 Department of Environmental Protection the record of participation of
348 any person who satisfactorily completes such program who has been
349 charged with a violation of the provisions of section 15-133, as
350 amended, 15-140l, as amended, or 15-140n, as amended. The
351 Department of Environmental Protection shall maintain for a period of
352 seven years the record of a person's participation in such program as a
353 part of such person's boater certification record.

354 (c) At the time the court grants the application for participation in

355 the [pretrial alcohol education system] alcohol intervention program,
356 such person shall also pay to the court a nonrefundable program fee of
357 three hundred twenty-five dollars if such person is ordered to
358 participate in the ten-session program and a nonrefundable program
359 fee of five hundred dollars if such person is ordered to participate in
360 the fifteen-session program. [, except that no] If the court grants the
361 application for participation in a treatment program, such person shall
362 be responsible for the costs associated with participation in such
363 program. The costs of such treatment program for any person who
364 receives or is eligible to receive medical assistance under a state
365 medical assistance program shall be paid for by such program. No
366 person may be excluded from [such] either program for inability to
367 pay such fee or cost, provided (1) such person files with the court an
368 affidavit of indigency or inability to pay, (2) such indigency is
369 confirmed by the Court Support Services Division, and (3) the court
370 enters a finding thereof. If the court denies the application, such person
371 shall not be required to pay the program fee. If the court grants the
372 application, and such person is later determined to be ineligible for
373 participation in such pretrial alcohol education system or fails to
374 complete the assigned program, the program fee shall not be refunded.
375 All such evaluation and program fees shall be credited to the pretrial
376 account.

377 (d) The Department of Mental Health and Addiction Services shall,
378 with respect to the alcohol intervention programs, contract with
379 service providers, develop standards and oversee appropriate alcohol
380 programs to meet the requirements of this section. Said department
381 shall adopt regulations in accordance with chapter 54 to establish
382 standards for such alcohol programs. Any person ordered to
383 participate in a treatment program shall do so at a state-licensed
384 alcohol or drug treatment program or at a state-licensed mental health
385 treatment program that has expertise in working with dually-
386 diagnosed clients. Any defendant whose employment or residence
387 makes it unreasonable to attend an [alcohol] intervention or treatment
388 program in this state may attend a program in another state which has
389 standards substantially similar to, or higher than, those of this state,

390 subject to the approval of the court and payment of the application,
391 evaluation and program fees, as appropriate, as provided in this
392 section.

393 (e) The court may, as a condition of granting such application,
394 require that such person participate in a victim impact panel program
395 approved by the Court Support Services Division of the Judicial
396 Department. Such victim impact panel program shall provide a
397 nonconfrontational forum for the victims of alcohol-related or drug-
398 related offenses and offenders to share experiences on the impact of
399 alcohol-related or drug-related incidents in their lives. Such victim
400 impact panel program shall be conducted by a nonprofit organization
401 that advocates on behalf of victims of accidents caused by persons who
402 operated a motor vehicle while under the influence of intoxicating
403 liquor or any drug, or both. Such organization may assess a
404 participation fee of not more than twenty-five dollars on any person
405 required by the court to participate in such program.

| | |
|--|-----------------|
| This act shall take effect as follows: | |
| Section 1 | October 1, 2004 |
| Sec. 2 | October 1, 2004 |

Statement of Legislative Commissioners:

In subsection (g) of Section 1, "within thirty days after" was changed to "not later than thirty days after" for consistency.

TRA *Joint Favorable Subst. C/R*

JUD

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 05 \$ | FY 06 \$ |
|------------------------|-------------|----------------------|----------------------|
| Motor Vehicle Dept. | TF - Cost | 250,000 | 0 |
| Social Services, Dept. | GF - Cost | Potential Minimal | Potential Minimal |

Note: TF=Transportation Fund; GF=General Fund

Municipal Impact: None

Explanation

The bill allows the Department of Motor Vehicles (DMV) to initiate suspension action of an operator's driver's license immediately in the case of someone who has been arrested while driving under the influence (DUI) of alcohol or drugs and: (a) has been involved in a fatal accident; or (b) has a prior license suspension for a DUI conviction within the last ten years. The DMV will incur a one-time cost of at least \$250,000 for FY 05 computer re-programming of the Operator Control System and ancillary systems in order for it to be able to process this new type of suspension.

The bill also adds a provision to the current Pre-Trial Intervention programs under the Department of Mental Health and Addiction Services (DMHAS) that allows the courts to order defendants to complete a substance abuse treatment program. The bill specifies that the participant must be responsible for the program's costs. However, if the participant receives or is eligible to receive state medical assistance, the state will be responsible for the cost. This provision could lead to additional costs under the DMHAS General Assistance Managed Care program or the Department of Social Services' Medicaid program. However, given the history of participation in the Pre-Trial Intervention programs, it is expected that most participants will be able to access private insurance. Therefore, the additional costs

under the state medical programs is expected to be minimal.

Background

During calendar year 2002, there were 13,672 DUI arrests. Of those, 12,391 were processable for cases of DUI to initiate suspension actions. Such individuals have seven days under current law to request a hearing to contest the charges. The agency has 30 days to schedule a hearing and decision. About one-half will request a hearing. Under the bill, about 3,000 of the DUI arrests would be subject to immediate suspension action. In each such case the person is entitled to request an administrative hearing after the suspension action, which must be scheduled and held within 30 days. The hearing must be preceded by written notice.

OLR Bill Analysis

sSB 101

**AN ACT CONCERNING THE ADMINISTRATIVE LICENSE
SUSPENSION OF DRUNKEN DRIVERS AND THE PRETRIAL
ALCOHOL EDUCATION SYSTEM****SUMMARY:**

This bill establishes a different administrative driver's license suspension procedure when someone who has been arrested for driving while under the influence of alcohol or drugs (DWI) has been either involved in an accident resulting in a fatality or has a prior license suspension for a DWI conviction within the preceding 10 years. It also allows someone charged with DWI who has applied for the pretrial alcohol education program to be ordered to complete either an alcohol intervention program or a substance abuse treatment program, depending on the findings of the assessment the law requires prior to a decision being made on their eligibility.

EFFECTIVE DATE: October 1, 2004

ADMINISTRATIVE DRIVER'S LICENSE SUSPENSION

By law, when police officer arrests someone based on the officer finding that there is probable cause to believe the person has been driving while under the influence of alcohol or drugs, the officer may request that the person submit to a chemical test of his blood, breath, or urine. Before making such a request, the officer must inform the person of his constitutional rights. The person must also be given a reasonable opportunity to telephone an attorney before performing the test and be informed that his license or nonresident operating privilege may be suspended if he refuses to take the test or the test results indicate an elevated blood-alcohol content (.08% or .02% if under age 21).

Currently, if the person either refuses to take the test or the results show an elevated blood-alcohol level, the police officer, acting on behalf of the motor vehicle commissioner, must immediately revoke and take possession of his driver's license (or suspend his nonresident

operating privilege) for a period of 24 hours and send a written report and the test results to the commissioner that follows certain statutory requirements. The report must be sent within three business days. Upon receiving of the report, the commissioner may suspend the person's license or nonresident operating privilege effective on a date certain that cannot be more than 30 days from the date the person was arrested. The person has seven days from the date the notice of suspension was mailed to request a hearing on the impending suspension and the hearing must be held prior to the date the suspension becomes effective.

The bill establishes a different suspension requirement if the arrested person is either (1) involved in an accident resulting in a fatality or (2) has previously had his license or nonresident operating privilege suspended for a DWI offense during the preceding 10 years. The person does not need to have been found at fault with respect to a fatal accident for the requirement to apply.

Under the bill, the commissioner may suspend such a person's license or nonresident operating privilege effective on a date specified in the suspension notice. The person has seven days from the date the notice was mailed to request a departmental hearing, and the hearing must be scheduled not more than 30 days after the person contacts the department. Any such suspension must remain in effect until it is affirmed or the license or operating privilege is reinstated according to law.

In effect, in the case of someone involved in a fatal accident or who has a prior suspension due to a previous DWI conviction, the bill allows the commissioner to suspend the license or nonresident operating privilege immediately or at any other date he determines and provide the hearing opportunity within 30 days of one being requested rather than, as under current law, making the suspension effective 30 days after the arrest with a hearing opportunity before the suspension becomes effective.

The issues that any such hearing must be limited to remain the same in either case, that is, whether (1) the officer had probable cause to arrest the person for DWI, (2) the person was arrested, (3) he refused to take the test or did the results of the test commenced within two hours of the time of operation indicate an elevated blood-alcohol content, and (4) he was operating the vehicle.

PRETRIAL ALCOHOL EDUCATION PROGRAM

Currently, someone charged with DWI, operating a vehicle with a blood-alcohol content of .02% or more if under age 21, operating a vessel or waterskiing while under the influence of alcohol or drugs, or reckless operation of a vessel while under the influence of alcohol or drugs, may apply to the court for admission to the pretrial alcohol education system. The applicant must pay certain fees and make certain affirmations under oath before the court, one being that he has not been charged with a DWI violation within the preceding 10 years. The court may grant the application after considering the recommendations of the state's attorney. If must then refer the person to the Court Support Services Division for assessment and confirmation of eligibility. Upon confirmation of eligibility, the person must be referred by the support services division to the Department of Mental Health and Addiction Services for placement in an appropriate alcohol intervention program for one year. If the person satisfactorily completes the assigned program, he may apply for dismissal of the charges against him. Upon a finding of satisfactory completion, the court must dismiss the charges.

The bill gives the court a second option, allowing to either refer the defendant to an alcohol intervention program, as under current law, or order him to complete a state-licensed substance abuse treatment program of at least 12 sessions. If the court grants the defendant's application for participation in a treatment program, he must pay all program costs. However, the program must pay the costs for anyone who receives or is eligible to receive medical assistance under a state medical assistance program.

Participation in a treatment program must be at a state-licensed alcohol or drug treatment program or at a state-licensed mental health treatment program that has expertise with dually diagnosed clients.

As is the case for participation in an intervention program, anyone whose employment or residence makes it unreasonable to attend a treatment program in Connecticut may attend, with the court's approval, a similar program in another state that has standards substantially similar to or higher than those of this state.

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute Change of Reference

Yea 27 Nay 0

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 1